

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

ADAM W. PEET,)	
)	CASE NO. 1:06CV00010
Petitioner,)	
)	JUDGE JAMES S. GWIN
v.)	
)	MAGISTRATE JUDGE VECCHIARELLI
JULIUS WILSON, Warden,)	
)	<u>REPORT & RECOMMENDATION</u>
Respondent.)	

Petitioner, Adam W. Peet ("Peet"), *pro se*, filed a Petition for Writ of Habeas Corpus on January 4, 2006 with the United States District Court for the Northern District of Ohio. (Doc. No. 1.) This matter is before the undersigned Magistrate Judge pursuant to Local Rule 72.2. On April 24, 2007, the undersigned issued a Memorandum Opinion and Order explaining the need to hold an evidentiary hearing to address the issue of whether Peet requested his trial counsel to file an appeal on his behalf.¹ (Doc. No. 13.) On May 22, 2007, the Court held an evidentiary

¹ The undersigned believed an evidentiary hearing was necessary to address the issue of whether Peet was deprived of an appeal as of right in light of the holdings of *Roe v. Flores-Ortega*, 528 U.S. 470 (2000); *Rodriguez v. United States*, 395 U.S. 327 (1969); *Ludwig v. United States*, 162 F.3d 456, 459 (6th Cir. 1998); and *Smith v Ohio Dep't of Rehab. & Corr.*, 463 F.3d 426, 431 (6th Cir. 2006).

hearing where Peet, his trial counsel, and several other witnesses testified. (Doc. No. 27.) At the conclusion of the hearing, Peet was instructed to file a notice with the Court, after consultation with his attorney, indicating whether he wished to pursue his habeas petition. (Doc. No. 27.)

On June 5, 2007, Peet, through his court appointed counsel, filed a Motion to Dismiss Habeas Corpus Petition.² (Doc. No. 29.) As Peet has clearly expressed his desire to withdraw his petition, a decision made with the benefit of counsel, the Magistrate Judge recommends Peet's petition be DISMISSED.

/s/ Nancy A. Vecchiarelli
U.S. Magistrate Judge

Date: June 5, 2007.

OBJECTIONS

Any objections to this Report and Recommendation must be filed with the Clerk of Courts within ten (10) days of this notice. Failure to file objections within the specified time may waive the right to appeal the District Court's order. See *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981). See also *Thomas v. Arn*, 474 U.S. 140 (1985), *reh'g denied*, 474 U.S. 1111 (1986).

² Attached to the motion is a letter from Peet to his attorney in which Peet indicates his desire to withdraw his habeas petition so he can focus on pursuing early judicial release. (Doc. No. 29-2, Exh. 1.)